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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,060	02/11/2004	Dilip Tapadiya	TAPADI.003C2	2091
20995	7590	11/01/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			ANDERSON, CATHARINE L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/776,060	Applicant(s) TAPADIYA, DILIP	
	Examiner C. Lynne Anderson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-55, 63-70, 75-81, 89, 90 and 124-127 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51-55, 63-70, 75-81, 89, 90 and 124-127 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/28/06, 9/28/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11 August 2006 have been fully considered but they are not persuasive.

In response to the applicant's argument that Kress fails to disclose the center of the contoured recesses being offset from the center of the first side, it is noted that the instant claim does not disclose how the centers of the recess or the side are defined. The recess and side each have a central line as defined in the lateral direction of the basin, another central line as defined in the longitudinal direction of the basin, and a central point as defined with respect to the surface area of the side or recess. Since the recesses of Kress each have a central line in the lateral direction that is offset from the central line of the first side, Kress fulfills the limitations of the instant claims.

In response to the applicant's argument that Kress fails to disclose recessed portions on adjacent sides of the basin, it is noted that the term 'adjacent' does not require the sides are in direct contact with each other. Therefore, the opposite sides disclosed by Kress are adjacent to one another since they nearby each other.

In response to the applicant's argument that the recesses 162 and 163 of Holloway are not curved, it is noted that the degree of curvature of the recesses is not defined. The recesses 162 and 163 of Holloway are shown in figure 7 as comprising the wall 132 of the basin curving down to meet the flat bottom surfaces of recesses 162 and 163. Therefore, at least a portion of the recesses 162 and 163 are curved and fulfill the limitations of the claim.

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In response to the applicant's argument that the recesses 162 and 163 of Holloway are not configured to support a human limb, it is noted that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the C-shaped contact region being different from a kidney-shaped basin) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to the applicant's argument that Meinecke fails to disclose recessed portions on adjacent sides of the basin, it is noted that the term 'adjacent' does not require the sides are in direct contact with each other. Therefore, the opposite sides disclosed by Meinecke are adjacent to one another since they nearby each other.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 51-55 and 81 are rejected under 35 U.S.C. 102(b) as being anticipated by Kress (2,709,435).

With respect to claims 51 and 81, Kress discloses a medical basin, as shown in figure 1, comprising a base 12 and a peripheral wall 14 defining a cavity. An upper periphery 22 is defined by the upper edge of the peripheral wall 14, and has first and second contoured recesses configured to receive a human extremity, as shown in figure 1. The center line of the first recess is offset from the center line of the first side when defined in the lateral dimension of the basin.

With respect to claim 52, the first recess comprises a concave portion extending down and inwardly toward the cavity, as shown in figure 1.

With respect to claim 53, the first and second contoured recesses are fully capable of receiving a bent leg.

With respect to claim 54, the peripheral wall is fully capable of being deflected.

With respect to claim 55, the first and second contoured recesses are fully capable of receiving a leg above and below the knee.

Claims 76-77, 79-80, and 125-127 are rejected under 35 U.S.C. 102(b) as being anticipated by Holloway et al. (5,381,562).

With respect to claim 76, Holloway discloses a medical basin, as shown in figure 7, comprising a base 114 and a peripheral wall 112 defining a cavity. An upper periphery 132 is defined by the upper edge of the peripheral wall 112, and comprises a first contoured recess 162, a second contoured recess 163, and a third contoured

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recess 136, each fully capable of receiving a human extremity, as disclosed in column 2, lines 53-55.

With respect to claim 77, the upper periphery 132 further comprises a fourth contoured recess 138.

With respect to claim 79, the contoured recesses have different sizes, as shown in figure 10.

With respect to claim 80, the first and second contoured recesses have the same size, and the third contoured recess has a different size, as shown in figure 10.

With respect to claims 125 and 127, the center line of the first recess is offset from the center line of the first side, and the center line of the second recess is offset from the center line of the second side, when defined in the lateral dimension of the basin.

With respect to claim 126, the first recess may be defined as recess 136, which is at a 90 degree angle with respect to the second recess 163.

Claims 63-65, 67-70, 75, 81, 89, and 124 are rejected under 35 U.S.C. 102(b) as being anticipated by Meinecke (1,061,769).

With respect to claim 63, Meinecke discloses a medical basin, as shown in figure 1, comprising a base a and a peripheral wall a1 defining a cavity. A C-shaped contact region is defined by the front portion of the peripheral wall a1 and has a generally concave shape recessed inwardly toward the cavity, as shown in figure 2.

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With respect to claim 64, the portion b of the peripheral wall is biased outwardly away from the cavity, as shown in figures 1 and 4.

With respect to claims 65 and 75, the base a is curved in the manner of a horseshoe to define a U-shaped basin, as shown in figure 2.

With respect to claim 67, the first and second ends are convexly curved towards each other, as shown in figure 2.

With respect to claim 68, the convex ends define a smaller spacing than the concave-shaped middle portion of the basin, as shown in figure 2.

With respect to claims 69 and 70, the basin is fully capable of receiving the thigh of a human leg.

With respect to claim 81, Meinecke discloses a medical basin, as shown in figure 1, comprising a base 1 and a peripheral wall a1 defining a cavity. An upper periphery b is defined by the upper edge of the peripheral wall a1, and comprises first and second contoured recesses, as shown in figure 1.

With respect to claim 89, the first contoured recess is located on a short side of the basin, and the second contoured recess is located on the front side at a 90 degree angle relative to the first contoured recess.

With respect to claim 124, the contact region is fully capable of receiving a portion of an arm near the shoulder.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 66 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meinecke (1,061,769).

Meinecke discloses all aspects of the claimed invention with the exception of the peripheral wall defining a contact region that is thinner at an upper edge than at a lower portion, and the flange having a further extension near the second end. It would have been obvious to one of ordinary skill in the art at the time of invention to make the upper edge of the peripheral wall thinner and the flange extend further at the second end, since the thickness of the wall and the extension of the flange do not serve any particular purpose or solve any stated problem, and it appears the invention will function equally well with either a thicker or thinner upper edge, or greater or less extension of the flange.

Claim 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holloway et al. (5,381,562) in view of Kress (2,709,435).

Holloway discloses all aspects of the claimed invention with the exception of the recesses being the same size. Kress teaches providing a medical basin with contoured recesses of the same size, as shown in figure 1, which allows the basin to be used in either direction. It would have been obvious to one of ordinary skill in the art at the time of invention to make the contoured recesses of Holloway the same size, as taught by Kress, to allow the basin to be used in either direction.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UWA

cla

October 26, 2006



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

